

California Regional Water Quality Control Board
Santa Ana Region

August 26, 2005

STAFF REPORT

ITEM: 6

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Phillip and Christina Klapper, 33567 Adelfa Street, Lake Elsinore, Riverside County, APN 383-171-030

DISCUSSION:

On July 25, 2005, Phillip and Christina Klapper contacted staff requesting an exemption from the Board's minimum lot size requirements for the use of a septic tank-subsurface disposal system on a 0.20-acre lot at 33567 Adelfa Street, Lake Elsinore. This area of Lake Elsinore is unsewered. There is an existing residence on the lot that is connected to an existing septic tank-subsurface disposal system. Mr. & Mrs. Klapper have converted a 960 sq ft garage/workshop on their lot into a second home where they could care for their daughter and grandchildren. This second home is also connected to the existing septic tank-subsurface disposal system. The garage/workshop conversion to a second home was done without obtaining the proper permits from Riverside County Building and Safety.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwater of the Region. Mr. & Mrs. Klapper's proposed development is a new development as defined in Resolution No. 89-157 and is therefore subject to the minimum lot size requirements specified therein. With a density of 0.11 acres per dwelling unit, Mr. & Mrs. Klapper's proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied Mr. & Mrs. Klapper's request for an exemption from the minimum lot size requirements.

Mr. & Mrs. Klapper notes that the additional flows that would occur as a result of this project would be no greater than the flows that would be allowed if they were to add on to the existing house and replace the existing septic tank to accommodate the increased flows, which would be exempt from the minimum lot size requirement. On this basis, Mr. & Mrs. Klapper are appealing to the Regional Board for reversal of staff's denial of an exemption from the minimum lot size requirements.

The minimum lot size exemption criteria to be used by Board staff specify that replacement of existing septic tank-subsurface disposal systems to allow additional flows resulting from additions to existing dwelling units is exempt from the one half acre requirement. However, the Board's exemption criteria specifically state that such an exemption does not apply to the addition of freestanding structures, such as a second home on the Klapper's property. In establishing the exemption criteria, the Board made this distinction because of the potential that the addition of freestanding structures could result, either immediately or in the future, in substantially greater wastewater flows than would be expected as the result of additions to an existing dwelling.

While it is true that there would be no difference in wastewater flows on an immediate basis, i.e., while Mr. & Mrs. Klapper own the property and their daughter and grandchildren reside with them, there can be no guarantee that wastewater flows would not increase considerably in the future. As stated above, it was on this basis that the Board determined not to exempt the addition of freestanding structures from the minimum lot size requirements. However, in this case, the proposed additional structure will be used only temporarily for housing. Mr. & Mrs. Klapper have offered to remove the fixture units from the second home (garage/workshop conversion) and eliminate the connection from the second home to the existing septic system once it is no longer required. Mr. & Mrs. Klapper have also agreed to enter into an Agreement of Restriction to be recorded with the property Chain of Title that stipulates that this property may not be sold until the fixture units from the second home have been eliminated and the connection to the septic system has been removed (capped off).

RECOMMENDATION:

Approve Mr. & Mrs. Klapper's request for an exemption from the minimum lot size requirement specified in Resolution No. 89-157 with the following stipulations: 1) Once the second home is no longer required for use of the Klapper family, the fixture units will be removed from the second home and the connection to the septic system will be eliminated (capped off); and, 2) Mr. & Mrs. Klapper must enter into an Agreement of Restriction, which shall become a part of their Chain of Title, that the property may not be sold until the fixture units in the temporary home (garage/workshop conversion) have been removed prior to sale of the property or whenever the temporary home is no longer required for the use of their daughter and grandchildren, whichever occurs first.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon
Riverside County Environmental Health – Sam Martinez
Riverside County Environmental Health, Murrieta Office – Matt Rhia
Riverside County Building and Safety – Steve Dondalski
Riverside County Planning – Mark Balys